

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NO. 1:19-CR-739
)	
Plaintiff,)	JUDGE CHRISTOPHER A. BOYKO
)	
vs.)	
)	
JOSE ALFONZO LOPEZ,)	OPINION AND ORDER
)	
Defendant.)	

CHRISTOPHER A. BOYKO, J.:

Before the Court is Defendant's Motion for Nunc Pro Tunc Designation. (ECF #39.)

Defendant's motion asks for an order to clarify the Court's Judgment that Defendant's federal sentence runs concurrent to his state court sentence in Cuyahoga County Case No. CR-21-658704-A (the "State Case"). *Id.*

Defendant was indicted on December 3, 2019 for Conspiracy to Possess with Intent to Distribute Cocaine and Possession with Intent to Distribute Cocaine (ECF #9) and was free on bond pending trial. (*See* Minutes Order December 13, 2019.) While out on bond, Defendant was arrested and charged with felony Trafficking in the State Case. (*See* State Case Docket May 11, 2021.) As a result of the State Case, Defendant's bond was revoked. (*See* Minutes Order April 21, 2021.)

On June 11, 2021, Defendant was sentenced to for a term of 56 months, with 4 years of Supervised Release. (ECF #35.) On July 15, 2021, Defendant plead guilty in the State Case and was sentenced to 2 years to run concurrently to the sentence in this matter and was released to

federal authorities to fulfill his federal sentence. (See State Case Docket July 15, 2021.) It appears Defendant was not released to federal authorities at that time. A search of the Ohio Offender Search reveals that Defendant may have been incarcerated at Belmont Correctional Institution and had a release date of March 9, 2023. (See Ohio Offender Search, available at <https://appgateway.drc.ohio.gov/OffenderSearch>, accessed September 13, 2024.) Defendant also states that the Bureau of Prisons “ran the instant cause consecutive to the state case, beginning on 09 March 2023, with 83 days jail credit.” (ECF #39.)

It is unclear what harm is remedied by the issuance of a nunc pro tunc order clarifying the nature of the sentence. Defendant implies that his sentence is being improperly calculated. However, the Federal Bureau of Prisons Inmate Locator reveals a release date of May 14, 2025. (See <https://www.bop.gov/inmateloc/>, accessed September 13, 2024.) The release date roughly comports with the Court’s 56-month sentence, beginning April 21, 2021 when Defendant’s bond was revoked and he was remanded into the custody of the U.S. Marshal and accounting for some good conduct time credit that may have been earned. Accordingly, Defendant has not sufficiently substantiated that there is an addressable error or that the Bureau of Prisons has miscalculated his sentence such that nunc pro tunc relief is necessary.

Should there be an actual error, Defendant is free to file another motion demonstrating the miscalculation and the Court’s authority to remedy that error. Defendant’s motion is **DENIED WITHOUT PREJUDICE.**

IT IS SO ORDERED.

/s Christopher A. Boyko
CHRISTOPHER A. BOYKO
United States District Judge

Dated: September 13, 2024